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Deliberations

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA

v.

12 CR 626 (ER)

4 RAYMOND CHRISTIAN a/k/a

"Reckless"

5 GLENN THOMAS, a/k/a "Gucci"

TYRELL WHITAKER, a/k/a "Bow Wow"

Defendants

6 -----x

New York, N.Y.
August 22, 2014
9:34 a.m.

9 Before:

HON. EDGARDO RAMOS

District Judge

11 APPEARANCES

12 PREET BHARARA

United States Attorney for the
Southern District of New York

13 ANDREW BAUER

14 KAN M. NAWADAY

Assistant United States Attorney

15 DAVID S. GREENFIELD

16 and

ANTHONY STRAZZA

17 Attorneys for Defendant Christian

18 LAW OFFICES OF DON BUCHWALD

Attorney for Defendant Thomas

19 DON D. BUCHWALD

20 KELLEY DRYE & WARREN LLP

Attorney for Defendant Thomas

21 LEVI DOWNING

22 GEORGE ROBERT GOLTZER

and

23 YING STAFFORD

Attorneys for Defendant Whitaker

24 -- also present--

S.A. Andrei Petron - FBI

E8m9chr1

Deliberations

1 (In open court)

2 (Jury not present)

3 THE COURT: Where are the rest of the defense lawyers?

4 We said 9:30 that we'd bring the jury out to do the readings.

5 MR. BAUER: I didn't think that we said that we'd be
6 here at 9:30.

7 THE COURT: No. I said that. We told the jury that
8 we -- that we'd bring them out at 9:30 so we can do the tape,
9 the Gotti tape and the 911 tape.

10 Are we ready to go with those recordings?

11 MR. BAUER: I think we missed that too. We left
12 Ms. McInerney back at our office to finish the printing.

13 THE COURT: What do we have? What can we give the
14 jury?

15 MR. BAUER: Baynes' testimony.

16 THE COURT: Has the defense seen that?

17 MR. BAUER: Yes.

18 THE COURT: So let's, Ms. Miller, do you want to hand
19 that back?

20 MR. NAWADAY: Your Honor, Ms. McInerney is on her way
21 so we can play the tape.

22 THE COURT: Any issues concerning the other
23 transcripts that were requested?

24 MR. BUCHWALD: No.

25 MS. STAFFORD: We've gone through everything.

E8m9chr1

Deliberations

1 MR. BUCHWALD: There are three or four that we didn't
2 do yet.

3 MR. BAUER: Defense counsel has seen and approved our
4 redactions for Baynes, Mallory, Williams, and Evans. They have
5 yet to see McDermott, Boone, and Smith. Those should be quick,
6 which we'll get to them as soon as we're done here.

7 THE COURT: Any estimate -- and I appreciate the
8 efforts of the U.S. Attorney's Office in getting this done.
9 Any estimate in when they will be done, the ones that have not
10 been approved?

11 MR. BAUER: Ms. McInerney had said just give her
12 fifteen minutes and she would have had Mallory and the other
13 two done and ready to bring here. I think we probably
14 interrupted those fifteen minutes by telling her to come do the
15 video. So as soon as we're done here it will be very shortly
16 after.

17 THE COURT: So the parties are aware, the jury has
18 also requested highlighters. So we'll be giving them
19 highlighters.

20 MR. BAUER: Judge, we are ready.

21 THE COURT: We have the 911 tape and the Burden tape.
22 Do you have a preference as to which one we do first?

23 MR. BAUER: Let's do the Burden tape.

24 THE COURT: Okay. That's fine.

25 Let's bring out the jury.

E8m9chr1

Deliberations

1 MR. BAUER: Judge, by the way when they said 911 call
2 we assume they meant the Jeffrey Henry one, not the Elena --
3 because there were two.

4 THE COURT: Correct.

5 Was the Elena Gardner 911 tape played?

6 MR. BAUER: Right at the beginning.

7 (Continued on next page)

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E8m9chr1

Deliberations

1 (In open court)

2 (Jury present)

3 THE COURT: Good morning, everyone. Please be seated.

4 Now as I understand it the jury has now been -- good
5 morning -- the jury has now been provided with the transcripts
6 for the testimony of Mr. Baynes and Mr. Mallory. The others
7 will be sent to you as they are prepared. They should be to
8 you at some point this morning. The purpose for bringing you
9 out now is to play the tapes that you requested.

10 I was reminded that there were two 911 calls. There
11 was one that Elena Gardner placed to 911 on the first -- she
12 was the first witness, you may recall. It was my assumption
13 that you wanted the Jeffrey Henry 911 call so that's what will
14 be played. But we'll start with the playing of the various
15 portions of the Kevin Burden tape.

16 So does the jury have the transcripts?

17 MR. BAUER: I think they left them on their chairs.
18 I'm not sure.

19 Ready, Judge?

20 THE COURT: Yes.

21 (Audio visual recording played)

22 (Audio recording played)

23 THE COURT: Ladies and gentlemen, that concludes the
24 playback of the tapes that you requested. You should continue
25 your deliberations now and as I have indicated we'll get you

E8m9chr1

Deliberations

1 those additional transcripts as they become available.

2 (At 10:10 a.m., the jury retired to deliberate)

3 MR. BAUER: Judge, just to be clear once we have those
4 transcripts we don't need to all officially convened. Once
5 they're approved by the parties, give them to Ms. Miller?

6 THE COURT: Yes, that's fine.

7 (Recess pending verdict)

8 (At 3:05 p.m., a note was received from the jury)

9 THE COURT: Are we ready?

10 As the parties are aware, we have received a note
11 dated today's date, 2:31 p.m. And it reads in its entirety as
12 follows: We have reached a verdict. We request a
13 fifteen-minute break prior to delivering the verdict to the
14 court.

15 They've now gotten an approximately 40-minute break.
16 So before I bring them out, does either side wish me to poll
17 the jury?

18 MR. BUCHWALD: Yes.

19 THE COURT: Very well. The jury will be polled.

20 (Jury present)

21 THE COURT: Everyone please be seated.

22 Ladies and gentlemen of the jury, we have received
23 your note. It states that we have reached a verdict.

24 Do you have a foreperson?

25 Yes, sir.

E8m9chr1

Deliberations

1 And is this note correct?

2 JURY FOREPERSON: Correct.

3 THE COURT: Ms. Miller, could you please get the
4 verdict?

5 Ms. Miller, please take the verdict.

6 Mr. Bell, please stand.

7 THE CLERK: Count One, conspiracy to commit robbery.
8 How do you find the defendants, Raymond Christian and Glenn
9 Thomas, with respect to Count One: Conspiracy to commit
10 robbery?

11 As to defendant Raymond Christian?

12 JURY FOREPERSON: Guilty.

13 THE CLERK: As to defendant Glenn Thomas?

14 JURY FOREPERSON: Guilty.

15 THE CLERK: Count Two. Robbery. How do you find the
16 defendants, Raymond Christian, Tyrell Whitaker, and Glenn
17 Thomas, with respect to Count Two: Robbery?

18 As to defendant Raymond Christian?

19 JURY FOREPERSON: Guilty.

20 THE CLERK: As to defendant Tyrell Whitaker?

21 JURY FOREPERSON: Guilty.

22 THE CLERK: As to defendant Glenn Thomas?

23 JURY FOREPERSON: Guilty.

24 THE CLERK: Count Three. Narcotics conspiracy.

25 How do you find the defendants, Raymond Christian and

E8m9chr1

Deliberations

1 Glenn Thomas, with respect to Count Three: Conspiracy to
2 distribute or possess with intent to distribute controlled
3 substances?

4 As to defendant Raymond Christian?

5 JURY FOREPERSON: Not guilty.

6 THE CLERK: As to defendant Glenn Thomas?

7 JURY FOREPERSON: Not guilty.

8 THE CLERK: Count four. Murder through use of a
9 firearm relating to a crime of violence as charged in Counts
10 One and Two. How do you find the defendants, Raymond
11 Christian, Tyrell Whitaker and Glenn Thomas, with respect to
12 Count Four?

13 First as to defendant Raymond Christian?

14 JURY FOREPERSON: Guilty.

15 THE CLERK: Second, defendant Tyrell Whitaker?

16 JURY FOREPERSON: Guilty.

17 THE CLERK: Third, defendant Glenn Thomas?

18 JURY FOREPERSON: Guilty.

19 THE CLERK: Count Five. Use of firearms during and in
20 relation to a crime of violence as charged in Counts One and
21 Two.

22 First as to defendant Raymond Christian?

23 JURY FOREPERSON: Guilty.

24 THE CLERK: Second, defendant Tyrell Whitaker?

25 JURY FOREPERSON: Guilty.

E8m9chr1

Deliberations

1 THE CLERK: Third, defendant Glenn Thomas?

2 JURY FOREPERSON: Guilty.

3 THE CLERK: 5 (a). Brandish/discharge. If you
4 answered guilty for Count Five for Raymond Christian, answer
5 the following. If you found the defendant Raymond Christian
6 guilty of Count Five, please indicate if you also found him
7 responsible for brandishing or discharging the firearm.

8 As to brandishing?

9 JURY FOREPERSON: Yes.

10 THE CLERK: As to discharging?

11 JURY FOREPERSON: No.

12 THE CLERK: 5 (b). Brandish or discharge as to
13 Tyrell Whitaker.

14 As to brandishing?

15 JURY FOREPERSON: Yes.

16 THE CLERK: As to discharging?

17 JURY FOREPERSON: No.

18 THE CLERK: 5 (c). Brandish or discharge as to Glenn
19 Thomas.

20 Brandishing?

21 JURY FOREPERSON: Yes.

22 THE CLERK: Discharging?

23 JURY FOREPERSON: No.

24 THE CLERK: Count Six. Use of firearms during and in
25 relation to a drug trafficking crime as charged in Count Three.

E8m9chr1

Deliberations

1 How do you find the defendants Raymond Christian and
2 Glenn Thomas with respect to Count Six: Use of a firearm
3 during and in relation to a drug trafficking crime as charged
4 in Count Three?

5 As to defendant Raymond Christian?

6 JURY FOREPERSON: Guilty.

7 THE CLERK: As to defendant Glenn Thomas?

8 JURY FOREPERSON: Guilty.

9 THE COURT: Ms. Miller please get the verdict.

10 Now, ladies and gentlemen, I'm going to ask a question
11 to each of you in turn beginning with Juror No. 1.

12 Juror No. 1, is this your verdict?

13 JUROR: Yes.

14 THE COURT: Juror No. 2, is this your verdict?

15 JUROR: There's an error in Count Six. It wasn't
16 relevant because --

17 JUROR: Count Three and Six are not guilty.

18 THE COURT: Okay. I'm sorry.

19 MR. BUCHWALD: They only reach Count Six if Count
20 Three is guilty and Count Three is not guilty.

21 THE COURT: Then not guilty on Count Six -- no they
22 did not reach Count Six. So with that, Juror No. 1 is this
23 your verdict?

24 (Jury polled; each juror answered in the affirmative)

25 THE COURT: And so say you all.

E8m9chr1

Deliberations

1 Ladies and gentlemen, that concludes your jury service
2 and I want to thank you on behalf of the court and of the
3 parties for your very hard work, your attentiveness, your
4 promptness throughout the entirety of this trial. It is a
5 defining feature of our judicial system that when we have these
6 very difficult decisions to make, including decisions that
7 touch upon our very liberty, we literally turn to our neighbors
8 and rely upon your common sense to make those decisions, and
9 you have carried out your roles in the very finest traditions
10 of our system and for that I thank you.

11 You may discuss this case with whomever you want and
12 it may be possible that the lawyers may want to approach you
13 and talk to you. If you wish to speak with them, you're
14 certainly free to do so. However, you're certainly also free
15 to go about your life and to politely decline to discuss the
16 case with them or with anyone else. I leave that entirely in
17 your hands.

18 If I could just bother you to wait in the jury room
19 for just a couple more minutes and I will be with you in a
20 second.

21 (Jury excused)

22 THE COURT: Anything from the defense?

23 MR. GOLTZER: Not at this time.

24 MR. DRATEL: Your Honor, with respect to posttrial
25 motions, like to set a date now, obviously, to avoid having to

E8m9chr1

Deliberations

1 come back to court. But given Mr. Buchwald's schedule with
2 trials, my schedule and -- we'd like -- Mr. Greenfield,
3 obviously, as well. Counsel will be coordinating motions, if
4 we could get eight weeks, it would be best.

5 THE COURT: Eight weeks? Okay.

6 A date two months out, Ms. Miller.

7 THE CLERK: October 22, 2014.

8 THE COURT: And to respond.

9 MR. BAUER: Could we have a month, your Honor?

10 THE COURT: November 22, if that's a weekday.

11 THE CLERK: No, it is not. So November 25 is the next
12 Monday.

13 THE COURT: November 25 to respond.

14 How much time to reply?

15 MR. DRATEL: Two weeks, your Honor.

16 THE COURT: Two weeks.

17 THE CLERK: December 9.

18 And sentencing will be adjourned pending the outcome
19 of those motions.

20 MR. DRATEL: Thank you, your Honor.

21 THE COURT: Anything further?

22 MR. BAUER: Not from the government, your Honor.

23 THE COURT: Very well. Gentlemen I want to thank all
24 counsel for your professionalism and courtesy throughout this
25 trial. It's been a pleasure working with you these past few

E8m9chr1

Deliberations

1 weeks and I look forward to working with you again in the
2 future.

3 If there's nothing more, we are adjourned.

4 (Adjourned)

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